

Franchise Tax Board**ANALYSIS OF AMENDED BILL**

Author: DeSaulnier Analyst: Jahna Alvarado Bill Number: SB 301
Related Bills: See Legislative History Telephone: 845-5683 Amended Date: May 31, 2011
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Enterprise Zones/Applications/Boundaries

SUMMARY

This bill would modify the criteria for evaluating Enterprise Zone (EZ) applications.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The May 31, 2011, amendments removed the bill's provision, which related to seismic safety retrofits, and replaced them with the provision discussed in this analysis.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

It appears that the purpose of this bill is to limit the size of a proposed EZ if the boundaries of the proposed EZ would overlap the boundaries of a previously designated EZ.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2012, and would specifically apply to applications for EZ designation submitted on or after that date.

ANALYSIS

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Board Position:

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Executive Officer

Date

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FEDERAL/STATE LAW

Existing federal law provides special tax incentives for empowerment zones and enterprise communities to provide economic revitalization of distressed urban and rural areas.

Under the Government Code, existing state law allows the governing body of a city or county to apply for designation as an EZ. The application must include the definition of the proposed zone's boundaries.

Current state law is silent on a minimum or maximum size for a proposed EZ.

Under the Government Code, existing state law allows the governing body of a city or county to apply for designation as an EZ. Using specified criteria, the Department of Housing and Community Development (DHCD) designates EZs from the applications received from the governing bodies. EZs are designated for 15 years (except EZs meeting certain criteria may be extended to 20 years), and DHCD is authorized to designate 42 EZs under current law (42 are currently designated). When an EZ expires, DHCD is authorized to designate another in its place to maintain a total of 42 EZs. DHCD may approve the geographic expansion of EZs up to 15 percent in size and, for certain small EZs, up to 20 percent in size.

DHCD may audit EZ programs and determine a result of superior, pass, or fail, and may dedesignate failing programs. Any business located in a dedesignated zone that has elected to avail itself of any state tax incentive for any taxable year prior to dedesignation may continue to avail itself of those tax incentives for a period equal to the remaining life of the EZ, provided the business otherwise is still eligible for those incentives. When an EZ is dedesignated, it is no longer an EZ for designation purposes. Thus, when an EZ is dedesignated, DHCD may designate another EZ in its place to maintain a total of 42 EZs.

Under the Revenue and Taxation Code (R&TC), existing state law provides special tax incentives for taxpayers conducting business activities within an EZ. These incentives include a sales or use tax credit, hiring credit, business expense deduction, special net operating loss treatment, and net interest deduction. In addition, a wage credit may be claimed by specified employees of businesses operating in an EZ.

THIS BILL

Under the Government Code, this bill would, for applications for EZ designation that are submitted on or after January 1, 2012, limit the size of a proposed EZ when the proposed EZ's boundaries overlap the boundaries of one or more existing or expired EZs (previously designated EZs).

If the proposed EZ's boundary overlapped one previously existing EZ, the size of the proposed EZ would be limited to 115 percent of the size of the previously designated EZ.

If the boundary overlap involved more than one previously existing EZ, the size of the proposed EZ would be limited to 115 percent of the size of the largest previously designated EZ.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

AB 231 (Perez, 2011/2012) would, among other things, limit the size of a proposed EZ if the boundaries of a census block group or groups within the proposed EZ would overlap the boundaries of a previously designated EZ. AB 231 is currently in the Assembly Committee on Jobs, Economic Development, and the Economy.

AB 232 (Perez, 2011/2012) would, among other things, limit the size of a proposed EZ if the boundaries of a census tract or portion of a census tract in the proposed EZ would overlap the boundaries of a previously designated EZ. The limitation in AB 232 is similar to the limitation proposed in this bill. AB 232 is currently in the Assembly Committee on Jobs, Economic Development, and the Economy.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida allows several incentive provisions to encourage businesses in the revitalization of enterprise zones. The Florida Enterprise Zone Act and various tax incentive provisions are set to expire on December 31, 2015.

Illinois has 95 enterprise zones; *Massachusetts* has an Economic Development Incentive Program; *Michigan* has in excess of 150 geographic areas designated as Renaissance Zones; *Minnesota* has 5 zone-based tax incentive programs; *New York* has 72 Empire Zones.

New York's Empire Zone program sunset as of June 30, 2010. Businesses certified in the program prior to the sunset date remain in the program, and continue to be eligible for all the Empire Zone benefits, for the rest of their benefit period as long as they remain in compliance with the law and Empire Zone regulations.

Although the laws of each of the states surveyed include provisions specifying limitations on zone boundaries, no limitation based on an overlap with a previously designated zone was identified.

FISCAL IMPACT

No departmental costs are associated with this proposal.

ECONOMIC IMPACT

This bill would, for applications for EZ designation submitted on or after January 1, 2012, limit the size of the proposed EZ in certain circumstances. Because it is impractical to predict future EZ boundaries, and whether the limitation would apply to any or all of the EZs proposed in the future, the potential impact of this bill is unable to be determined.

SUPPORT/OPPOSITION

Support: none provided.

Opposition: none provided.

ARGUMENTS

Pro: Proponents may argue that limiting the size of a proposed EZ in specified circumstances could prevent excessive expansion of, or consolidation of, EZs in contradiction to the intent of targeting EZ incentives to the areas of the state in most need of assistance.

Con: Opponents may argue that limiting the size of a proposed EZ in cases where the proposed EZ's boundaries would overlap a previously designated EZ could preclude blighted areas of the state from participating in a program intended to fight blight and poverty.

LEGISLATIVE STAFF CONTACT

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